

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

SHAMIA FRANKLIN, *et al.*,

Plaintiffs,

v.

DAVE INC.,

Defendant.

Case No. 1:24-cv-00687-ADC

**MOTION OF DEFENDANT DAVE INC. TO COMPEL ARBITRATION AND STAY
PROCEEDING**

Defendant Dave Inc. (“Dave”) will and hereby does move this Court for an order compelling Plaintiff Shamia Franklin (“Plaintiff”) to arbitrate before the AAA each and every claim set forth in her Class Action Complaint filed in this action on March 7, 2024 (the “Complaint”), pursuant to the parties’ agreements to arbitrate contained in Dave’s Terms of Use (the “Terms”), and staying all claims against Dave in this action until arbitration is complete. In addition, pending resolution of Dave’s Motion to Compel Arbitration and Stay Proceedings (this “Motion”), Dave moves the Court to stay all further proceedings in this action other than discovery related to the issue of the agreement to arbitrate. The Court should grant this Motion because Plaintiff Shamia Franklin agreed to specific terms and conditions twice when signing up for the Dave mobile application (the “Dave App”) and her continued use of the Dave App. The Dave App provided clear and conspicuous notice to Plaintiff that by joining Dave and using the Dave App

and its suite of services, she agreed to Dave's Terms. Therefore, Plaintiff agreed to individually arbitrate her claims against Dave.¹

This Motion is based on this Notice, the accompanying Memorandum of Points and Authorities, the Declaration of Edward D. Totino, the Declaration of Kyle Beilman and Proposed Order filed herewith and on all other papers on file in this action, all materials that may be properly considered in connection with this motion, and any oral argument that may be entertained.

Dated: October 29, 2024



Edward D. Totino, *admitted pro hac vice*
edward.totino@bakermckenzie.com

Ben Turner, *admitted pro hac vice*
ben.turner@bakermckenzie.com

BAKER & McKENZIE LLP
10250 Constellation Blvd., Suite 1850
Los Angeles, CA 90067
Telephone: +1 310 201 4728
Facsimile: +1 310 201 4721

Andrew Yu-Chih, *admitted pro hac vice*
andrew.yuchih@bakermckenzie.com

BAKER & McKENZIE LLP
600 Hansen Way
Palo Alto, CA 94304
Telephone: +1 650 8562400
Facsimile: +1 650 856 9299

Mark S. Saudek (Fed. Bar # 23963)
msaudek@gejlaw.com

Victoria S. Trocchia (Fed Bar # 31138)
vtrocchia@gejlaw.com

GALLAGHER EVELIUS & JONES LLP
218 North Charles Street, Suite 400
Baltimore, Maryland 21201
Telephone: + 1 410 727 7702
Facsimile: +1 410 468 2786

Attorneys for Defendant Dave Inc.

¹ Dave and Plaintiff Latoya Moaney have settled their dispute. That settlement is being documented and, once completed, Plaintiff Moaney will be dismissing her claims against Dave. Therefore, Dave has not brought this motion against Plaintiff Moaney, but reserves the right to do so if Plaintiff Moaney's claims are not dismissed.